

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

ROBERT "BOB" BURNS - Chairman
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON
LEA MÁRQUEZ PETERSON

In the matter of:

ROBERT CHARLES HIGH II CRD#
4568165, an unmarried individual,

Respondent.

DOCKET NO. S-21081A-19-0208

**NOTICE OF OPPORTUNITY FOR HEARING
REGARDING PROPOSED ORDER TO CEASE
AND DESIST, ORDER FOR RESTITUTION,
ORDER FOR ADMINISTRATIVE
PENALTIES, ORDER OF REVOCATION,
AND ORDER FOR OTHER AFFIRMATIVE
ACTION**

NOTICE: RESPONDENT HAS 10 DAYS TO REQUEST A HEARING**RESPONDENT HAS 30 DAYS TO FILE AN ANSWER**

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondent Robert Charles High II CRD #4568165 has engaged in acts, practices, and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") and the Arizona Investment Management Act, A.R.S. § 44-3101 *et seq.* ("IM Act").

I.**JURISDICTION**

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution, the Securities Act, and the IM Act.

II.**RESPONDENT**

2. During the timeframe relevant to this Notice, i.e. approximately 2012 through at least the first several months of 2019, High has resided in Arizona.

3. High has been registered with the Commission as a salesman since October 2002 through February 2019, except for a several-weeks span in October – November 2003 when he voluntarily

1 stopped his employment at one registered dealer before going to his next employer, and a three-week
2 span in March – April 2012, when his employer terminated him for inappropriate workplace behavior;
3 during these two, weeks-long periods, he was not associated with a registered broker-dealer and his
4 registration was temporarily suspended pursuant to A.R.S. § 44-1949.

5 4. High has been licensed with the Commission as an investment adviser representative
6 since August 2006 through February 2019, except for the three-week span in March – April 2012,
7 described in the preceding paragraph when he was not associated with a licensed investment adviser and
8 his licensing was suspended pursuant to A.R.S. § 44-3158.

9 5. From April 10, 2012 through February 20, 2019, High's registration and license were
10 associated with First Financial Equity Corporation. On February 20, 2019, FFEC terminated High for
11 violation of the firm's policies. After FFEC terminated High, he was no longer associated with an
12 investment adviser or broker and his license and registration were automatically suspended by statute.

13 III.

14 FACTS

15 6. Since 2012, High has managed the investment accounts of RR, a resident of Chandler,
16 Arizona. This included an investment account owned by RR's entity. These investment accounts
17 were held by FFEC.

18 7. High had trading authority over these accounts.

19 8. In approximately early January 2019, RR noticed that the value of one of his accounts
20 seemed lower than he expected it to be. RR reviewed the account statements from the previous
21 several months. The statements from September 2018 – January 2019 showed nine cash withdrawals
22 with the description "ACH to MidFirst Bank" totaling \$145,827.

23 9. One of the transfers occurred on the day when RR sent High an email requesting that
24 High not sell or trade anything in RR's accounts; two transfers occurred after RR sent the email.

25 10. The transfers all went to a MidFirst account ending in 0477.
26

1 11. While account 0477 was in the name of RR's investment entity, RR and his entity did
2 not own the account. In fact, RR and his entities had not had an account at MidFirst in almost 10
3 years.

4 12. High, "dba Fast, Fun, Economical Cars," owned MidFirst account 0477. High was the
5 only signor on the account. Thus, all the transfers to the account were transfers to High.

6 13. Debits from account 0477 consist primarily of cash withdrawals, debit card
7 transactions appearing to be of a personal nature, and self-payable checks.

8 14. In order to transfer funds to MidFirst account 0477, High provided MidFirst with an
9 authorization form to transfer money from RR's FFEC investment account to the MidFirst account.
10 High also provided MidFirst with a voided check from RR's investment entity. RR had never seen
11 the authorization form before and had not signed it; the signature on the form that purported to be
12 RR's was not his. Additionally, RR did not provide MidFirst with the voided check for the
13 authorization.

14 15. High needed supervisor approval for each transfer from RR's FFEC account to
15 MidFirst account 0477. In High's emails seeking these approvals, he represented that he was
16 transferring the funds to RR's entity. In fact, all transfers were to go to High's MidFirst account 0477.

17 16. After RR discovered these transfers, he notified FFEC. FFEC investigated, discovered
18 the theft, and terminated High.

19 17. FFEC also notified the Financial Industry Regulatory Authority of High's conduct.
20 FINRA is a government-authorized, self-regulatory organization that oversees U.S. broker-dealers
21 and other aspects of the securities industry. On March 25, 2019, FINRA sent High a letter notifying
22 him that he was suspended from associating with any FINRA member in any capacity. The letter
23 informed High that his failure to request termination of the suspension within three months of the
24 notification would result in the suspension becoming permanent.

25 18. High did not request termination of the suspension and on June 28, 2019, FINRA
26 permanently barred High from associating with any FINRA member.

IV.**VIOLATION OF A.R.S. § 44-1991****(Fraud in Connection with the Offer or Sale of Securities)**

19. In connection with the offer or sale of securities within or from Arizona, High directly or indirectly: employed a device, scheme, or artifice to defraud; and engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon offerees and investors. High's conduct includes, but is not limited to, the theft of \$145,827 out of a client account that High managed.

20. This conduct violates A.R.S. § 44-1991.

V.**REMEDIES PURSUANT TO A.R.S. § 44-1962****(Denial, Revocation, or Suspension of Registration of Salesman; Restitution, Penalties, or other Affirmative Action)**

21. High's conduct is grounds to revoke his registration as a securities salesman with the Commission pursuant to A.R.S. § 44-1962(A)(8) and (10). Specifically, High is subject to a FINRA order permanently barring him from associating with a FINRA member; and he engaged in dishonest and unethical conduct under A.R.S. § 44-1962(A)(10) and Commission Rule R14-4-130 by (i) executing transactions on behalf of a customer without authority to do so; and (ii) making unauthorized use of customer funds and converting customer securities or funds for personal benefit.

22. High's violation of A.R.S. § 44-1962(A)(10) is also grounds to assess restitution, penalties, and/or take appropriate affirmative action.

VI.**REMEDIES PURSUANT TO A.R.S. § 44-3201****(Denial, Revocation, or Suspension of Investment Adviser or Investment Adviser Representative License; Restitution, Penalties, or other Affirmative Action)**

23. High's conduct is grounds to revoke his license as an investment adviser representative with the Commission pursuant to A.R.S. § 44-3201(A)(10) and (13). Specifically, High is subject to a FINRA order permanently barring him from associating with a FINRA member; and he has engaged in dishonest or unethical practices in the securities industry by stealing \$145,827 from a client account that he managed. Revocation of High's license would be in the public interest.

24. Pursuant to A.R.S. § 44-3201(A)(13), High's conduct is grounds to assess restitution, penalties, and/or take appropriate affirmative action.

VII.**VIOLATION OF A.R.S. § 44-3241****(Fraud in the Provision of Investment Advisory Services)**

25. High engaged in a transaction or transactions within or from Arizona involving the provision of investment advisory services in which High, directly or indirectly employed a device, scheme, or artifice to defraud; made untrue statements of material fact or omitted to state material facts that were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; or engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit. High's conduct includes, but is not limited to, stealing \$145,827 from a client account that he managed.

26. This conduct violates A.R.S. § 44-3241.

VIII.**REQUESTED RELIEF**

The Division requests that the Commission grant the following relief:

1. Order High to permanently cease and desist from violating the Securities Act and IM Act, pursuant to A.R.S. §§ 44-2032, 44-3292, 44-1962, and 44-3201;

2. Order High to take affirmative action to correct the conditions resulting from his acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032, 44-3292, 44-1962, and 44-3201;

3. Order High to pay the state of Arizona administrative penalties of up to \$5,000 for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

4. Order High to pay the state of Arizona administrative penalties of up to \$1,000 for each violation of the IM Act, pursuant to A.R.S. § 44-3296;

5. Order High to pay the state of Arizona administrative penalties, pursuant to A.R.S. §§ 44-1962 and 44-3201;

6. Order the revocation of High's registration as a securities salesman pursuant to A.R.S. § 44-1962;

7. Order the revocation of High's license as an investment adviser representative pursuant to A.R.S. § 44-3201;

8. Order any other relief that the Commission deems appropriate.

IX.

HEARING OPPORTUNITY

The respondent may request a hearing pursuant to A.R.S. §§ 44-1972, 44-3212, and A.A.C. R14-4-306. **If respondent requests a hearing, the requesting respondent must also answer this Notice.**

A request for hearing must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity for Hearing. The person requesting the hearing must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's website at <http://www.azcc.gov/divisions/hearings/docket.asp>.

1 If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20
2 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or
3 ordered by the Commission. If a request for a hearing is not timely made the Commission may, without
4 a hearing, enter an order granting the relief requested by the Division in this Notice of Opportunity for
5 Hearing.

6 Persons with a disability may request a reasonable accommodation such as a sign language
7 interpreter, as well as request this document in an alternative format, by contacting Kacie Cannon,
8 ADA Coordinator, voice phone number (602) 542-3931, e-mail kcannon@azcc.gov. Requests should
9 be made as early as possible to allow time to arrange the accommodation. Additional information
10 about the administrative action procedure may be found at
11 <http://www.azcc.gov/divisions/securities/enforcement/AdministrativeProcedure.asp>

12 X.

13 ANSWER REQUIREMENT

14 Pursuant to A.A.C. R14-4-305, if respondent requests a hearing, he must deliver or mail an
15 answer to this Notice of Opportunity for Hearing to Docket Control, Arizona Corporation
16 Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30 calendar days after the date
17 of service of this Notice. Filing instructions may be obtained from Docket Control by calling (602)
18 542-3477 or on the Commission's website at <http://www.azcc.gov/divisions/hearings/docket.asp>.

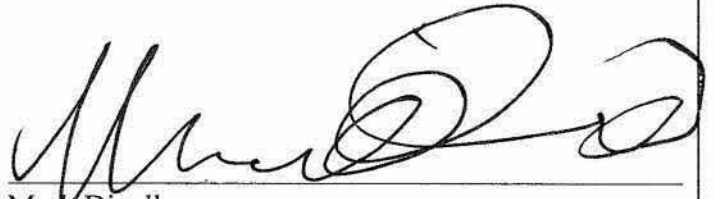
19 Additionally, the answering respondent must serve the Answer upon the Division. Pursuant
20 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a
21 copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007,
22 addressed to Ryan Millecam.

23 The Answer shall contain an admission or denial of each allegation in this Notice and the
24 original signature of the answering respondent or respondent's attorney. A statement of a lack of
25 sufficient knowledge or information shall be considered a denial of an allegation. An allegation not
26 denied shall be considered admitted.

1 When the answering respondent intends in good faith to deny only a part or a qualification of
2 an allegation, the respondent shall specify that part or qualification of the allegation and shall admit
3 the remainder. Respondent waives any affirmative defense not raised in the Answer.

4 The officer presiding over the hearing may grant relief from the requirement to file an Answer
5 for good cause shown.

6 Dated this 3rd day of September 2019.

A handwritten signature in black ink, appearing to read 'Mark Dinell', is written over a horizontal line.

Mark Dinell
Director of Securities